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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 VALERIE McDONALD,

11 Plaintiffs,

12 v.

13 NAVY FEDERAL FINANCIAL GROUP, LLC  
DBA NAVY FEDERAL CREDIT UNION,

14 Defendants.  
15

Case No. 2:23-cv-01325-ART-EJY

**NAVY FEDERAL CREDIT UNION'S  
MOTION TO QUASH PURPORTED  
SERVICE**

16 Navy Federal Credit Union (**Navy Federal**) a foreign entity, *specially appears* in this action  
17 for the purpose of moving to quash plaintiff Valerie McDonald's improper service of process.

18 **I. PROCEDURAL HISTORY**

19 On August 25, 2023 plaintiff *pro se* Valerie McDonald filed an application to proceed in  
20 District Court without prepaying fees or costs. **ECF No. 1.** Attached as an exhibit to that motion  
21 was a complaint. *Id.* On August 28, 2023 the court caused to be issued an advisory letter to litigant.  
22 **ECF No. 2.** On August 29, 2023 McDonald filed a motion for leave to amend complaint. **ECF No.**  
23 **3.** On September 9, 2023 the court issued an extensive order stating that McDonald's request to  
24 proceed in *forma pauperis* was granted, that the sixth claim for Violations of the Electronic Funds  
25 Transfer Act may proceed, that the First and Second Claims for Declaratory Relief, Third Claim for  
26 Violation of Consumer Rights, Seventh Claim for Violation of the Telephone Consumer Protection  
27 Act, and Eighth Claim for Violation of the Nevada Deceptive Trade Practices Act are dismissed  
28 without prejudice but with leave to amend. **ECF No. 4.** On September 7, 2023 McDonald filed an

amended complaint. **ECF No. 5.** On September 11 2023 McDonald filed second amended complaint against "Navy Federal Financial Group, LLC d/b/a Navy Federal Credit Union." **ECF No. 8.** A summons issued for "Nevada Financial Group, LLC" without the alleged "d/b/a Navy Federal Credit Union." **ECF No. 6.** On September 20, 2023 a certificate of service was filed. **ECF No. 7.** The certificate of service stated that the second amended complaint and summons were served to the registered agent of Navy Federal Financial Group, LLC at the following address: Corporate Service Company, C/O Navy Federal Financial Group, LLC, 112 N. Curry St. Carson City, Nevada 89703. *Id.* Navy Federal now *specially appears* in this action for the purpose of moving to quash McDonald's improper service.

## II. LEGAL STANDARD

FRCP 4(h) provides:

(h) Serving a Corporation, Partnership, or Association. Unless federal law provides otherwise or the defendant's waiver has been filed, a domestic or foreign corporation, or a partnership or other unincorporated association that is subject to suit under a common name, must be served:

(1) in a judicial district of the United States:

(A) in the manner prescribed by Rule 4(e)(1) for serving an individual; or

(B) by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and—if the agent is one authorized by statute and the statute so requires—by also mailing a copy of each to the defendant; or

(2) at a place not within any judicial district of the United States, in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under (f)(2)(C)(i).

NRCP 4(d)(2) provides:

**Service Upon Foreign Corporation or Nonresident Entity.** If the suit is against an unregistered foreign entity or association that has an officer, general partner, member, manager, trustee or director within this state, to such officer, general partner, member, manager, trustee or director or, if none, then service on such unregistered entity or association may be made by delivery to the secretary of state or the deputy secretary of state, in the manner and after affidavit as provided in subsection (d)(1) of this rule or otherwise as provided by law.

NRCP 4. (Emphasis Added).

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### III. ARGUMENT

To the extent McDonald attempted to serve Navy Federal Credit Union, the service is invalid for a number of reasons. **First**, McDonald named the incorrect party in the complaint as Navy Federal Credit Union is not named as a party in the complaint. **Second**, no such entity named "Navy Federal Financial Group, LLC d/b/a Navy Federal Credit Union" exists. Navy Federal Credit Union is a federally chartered credit union, chartered by the National Credit Union Administration (NCUA) with charter number 5536. **Ex. A.** As a federally chartered credit union Navy Federal has no requirement to maintain a registered agent in each state. Nor does it have a registered agent in the state of Nevada. Navy Federal Financial Group, LLC does have a registered agent in Nevada. **Ex. B.** Its registered agent is Corporate Service Company at the address McDonald served the summons and complaint. *See id.*; **ECF No. 7.** The summons did not name Navy Federal Credit Union. *See id.* Service for Navy Federal Credit Union to the registered agent of Navy Federal Financial Group, LLC is not valid as the two are separate and distinct entities. Under FRCP 4(h) and NRCP 4(d)(2), McDonald had a number of options to serve Navy Federal—but none of them permit service on a separate entity.

Despite the ambiguity caused by the incorrect naming of defendant (making it difficult to ascertain with certainty whether McDonald is attempting to bring suit against Navy Federal), Navy Federal makes a *special appearance* to quash this improper service of process.

### IV. CONCLUSION

Navy Federal requests the court issue an order quashing McDonald's improper service, and whatever other actions the court deems appropriate in light of the incorrect and ambiguous defendant named in the second amended complaint.

DATED this 10th day of October, 2023

**AKERMAN LLP**

/s/ Lilith V. Xara

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 10<sup>th</sup> day of October 2023, I caused to be served a true and correct copy of the foregoing **NAVY FEDERAL CREDIT UNION'S MOTION TO QUASH PURPORTED SERVICE** in the following manner:

☐ **(ELECTRONIC SERVICE)** Pursuant to FRCP 5(b), the above referenced document was electronically filed on the date hereof with the Clerk of the Court for the United States District Court by using the Court's CM/ECF system and served through the Court's Notice of electronic filing system automatically generated to those parties registered on the Court's Master E-Service List.

☒ **(UNITED STATES MAIL)** By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last-known mailing addresses, on the date above written.

**Valerie McDonald  
9004 In Vogue Ct.  
Las Vegas, NV 89149**

☐ **(PERSONAL SERVICE)** By causing to be personally delivered a copy of the above-referenced document to the person(s) listed below:

☒ **(EMAIL)** By emailing a true and correct copy of the above-referenced document to the person(s) listed below:

**Email: valeriecmcdonald@gmail.com**

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

*/s/ Patricia Larsen*  
An employee of AKERMAN LLP